

House _____ Amendment NO. _____

Offered By _____

1 AMEND Senate Bill No. 164, Page 1, In the Title, Lines 3-4, by deleting all of said lines and
2 inserting in lieu thereof the words "to the judiciary."; and
3

4 Further amend said bill, Page 1, Section A, Line 2, by inserting immediately after all of said section
5 and line the following:
6

7 "456.950. 1. As used in this section, "qualified spousal trust" means a trust:

8 (1) The settlors of which are [husband and wife] married to each other at the time of the
9 creation of the trust; and

10 (2) The terms of which provide that during the joint lives of the settlors all property [or
11 interests in property] transferred to, or held by, the trustee are:

12 (a) Held and administered in one trust for the benefit of both settlors, revocable by either
13 settlor or both settlors [acting together] while either or both are alive, and each settlor having the
14 right to receive distributions of income or principal, whether mandatory or within the discretion of
15 the trustee, from the entire trust for the joint lives of the settlors and for the survivor's life; or

16 (b) Held and administered in two separate shares of one trust for the benefit of each of the
17 settlors, with the trust revocable by each settlor with respect to that settlor's separate share of that
18 trust without the participation or consent of the other settlor, and each settlor having the right to
19 receive distributions of income or principal, whether mandatory or within the discretion of the
20 trustee, from that settlor's separate share for that settlor's life; or

21 (c) Held and administered under the terms and conditions contained in paragraphs (a) and (b)
22 of this subdivision.

23 2. A qualified spousal trust may contain any other trust terms that are not inconsistent with
24 the provisions of this section, including, without limitation, a discretionary power to distribute trust
25 property to a person in addition to a settlor.

26 3. [Any property or interests in property that are at any time transferred to the trustee of a
27 qualified spousal trust of which the husband and wife are the settlors, shall thereafter be administered
28 as provided by the trust terms in accordance with paragraph (a), (b), or (c) of subdivision (2) of
29 subsection 1 of this section. All trust property and interests in property that is deemed for purposes
30 of this section to be held as tenants by the entirety, including the proceeds thereof, the income
31 thereon, and any property into which such property, proceeds, or income may be converted, shall
32 have the same immunity from the claims of the separate creditors of the settlors as would have
33 existed if the settlors had continued to hold that property as husband and wife as tenants by the
34 entirety. Property or interests in property held by a husband and wife as tenants by the entirety or as
35 joint tenants or other form of joint ownership with right of survivorship shall be conclusively
36 deemed for purposes of this section to be held as tenants by the entirety upon its transfer to the

Action Taken _____ Date _____

Action Taken _____ Date _____

1 qualified spousal trust. All such transfers shall retain said immunity, so long as:

2 (1) Both settlors are alive and remain married; and

3 (2) The property, proceeds, or income continue to be held in trust by the trustee of the
 4 qualified spousal trust] All property at any time held in a qualified spousal trust, without regard to
 5 how such property was titled prior to it being so held, shall have the same immunity from the claims
 6 of a separate creditor of either settlor as if such property were held outside the trust by the settlors as
 7 tenants by the entirety, unless otherwise provided in writing by the settlor or settlors who transferred
 8 such property to the trust, and such property shall be treated for that purpose, including without
 9 limitation, federal and state bankruptcy laws, as tenants by entirety property. Property held in a
 10 qualified spousal trust shall cease to receive immunity from the claims of creditors upon the
 11 dissolution of marriage of the settlors by a court.

12 4. [Property or interests in property held by a husband and wife or held in the sole name of a
 13 husband or wife that are not held as tenants by the entirety or deemed held as tenants by the entirety
 14 for purposes of this section and are transferred to a qualified spousal trust shall be held as directed in
 15 the qualified spousal trust's governing instrument or in the instrument of transfer and the rights of
 16 any claimant to any interest in that property shall not be affected by this section] As used in this
 17 section, "property" means any interest in any type of property held in a qualified spousal trust, the
 18 income thereon, and any property into which such interest, proceeds, or income may be converted.

19 5. Upon the death of each settlor, all property [and interests in property] held by the trustee
 20 of the qualified spousal trust shall be distributed as directed by the then current terms of the
 21 governing instrument of such trust. Upon the death of the first settlor to die, if immediately prior to
 22 death the predeceased settlor's interest in the qualified spousal trust was then held in such settlor's
 23 separate share, the property [or interests in property] held in such settlor's separate share may pass
 24 into an irrevocable trust for the benefit of the surviving settlor upon such terms as the governing
 25 instrument shall direct, including without limitation a spendthrift provision as provided in section
 26 456.5-502.

27 6. The respective rights of settlors who are married to each other in any property for
 28 purposes of a dissolution of the settlors' marriage shall not be affected or changed by reason of the
 29 transfer of that property to, or its subsequent administration as an asset of, a qualified spousal trust
 30 during the marriage of the settlors, unless both settlors expressly agree otherwise in writing.

31 7. No transfer [by a husband and wife as settlors] to a qualified spousal trust shall [affect or
 32 change either settlor's marital property rights to the transferred property or interest therein
 33 immediately prior to such transfer in the event of dissolution of marriage of the spouses, unless both
 34 spouses otherwise expressly agree in writing] avoid or defeat the Missouri uniform transfer act in
 35 chapter 428.

36 [7.] 8. This section shall apply to all trusts which fulfill the criteria set forth in this section
 37 for a qualified spousal trust regardless of whether such trust was created before, on, or after August
 38 28, 2011.

39 456.1-113. Any transfer of an asset to a trustee of a trust, to such trust itself, or to a share of
 40 such trust, in a manner that is reasonably calculated to identify such trust or that share of such trust,
 41 subjects that asset to the terms of such trust or that share."; and

42
 43 Further amend said bill by amending the title, enacting clause, and intersectional references
 44 accordingly.